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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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09/787,294

03/15/2001

David T. Adams

48897-025

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20277 7590 05/16/2008  
MCDERMOTT WILL & EMERY LLP  
600 13TH STREET, N.W.  
WASHINGTON, DC 20005-3096

EXAMINER

WEISBERGER, RICHARD C

ART UNIT

PAPER NUMBER

3693

MAIL DATE

DELIVERY MODE

05/16/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

|                              |                        |                     |  |
|------------------------------|------------------------|---------------------|--|
| <b>Office Action Summary</b> | <b>Application No.</b> | <b>Applicant(s)</b> |  |
|                              | 09/787,294             | ADAMS ET AL.        |  |
|                              | <b>Examiner</b>        | <b>Art Unit</b>     |  |
|                              | Richard C. Weisberger  | 3693                |  |

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 2/11/2008.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-64, 70 and 71 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-64, 70 and 71 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____.                                     |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date. _____.  | 6) <input type="checkbox"/> Other: _____.                         |

*Claim Rejections - 35 USC § 112*

Claims 1-64 and 70-71 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Generally, it is not clear what steps are being carried out by the computer and which by conventional processes?

The limitation of screening a plurality of entities to identify a plurality of authorized traders, the screening performed by the central authority having a registry of the plurality of authorized traders and a standardized sales contract having pre-approved terms is indefinite with respect to the screening process. If the registry exists, on what criteria are the authorized traders being screened? Or are new traders first screened before they are entered into the registry? As for the contract, for what parties are the terms preapproved? What constitutes a preapproved contract? How can the contract be pre—approved before all the the material terms of the contract are agreed upon?

As for the limitation, submitting terms for trading the commodity from at least two traders of the plurality of authorized traders, "terms" are vague and indefinite.

As for the limitation, entering into an agreement for a sales contract based upon the submitted terms of each trader of at least two traders of the plurality of authorized traders and the pre-approved terms of the standardized sales contract, what constitutes an agreement for a sales contract. What is the contractual consideration?

The limitation that of the central authority determining that an entity has sufficient resources to complete a minimum trade in order to identify the entity as an authorized trader of the plurality of authorized traders using the registry, what is a "minimum trade"?

The limitation of determining that the at least two contracting traders have sufficient resources to perform according to the sales contract using the registry is indefinite as to how the registry is used to determine credit worthiness.

***Claim Rejections - 35 USC § 103***

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1-64 and 69-71 a43 rejected under 35 U.S.C. 103(a) as being unpatentable over FPIX in view of Blakos.

The applicant argues that Fpix is silent regarding pre-approved terms of a standardized sales contract, it would have been obvious for one to have added an pre-approved contracts regarding the use of the site etc as motivated the need satisfying internet law. It would have been obvious for one skilled in the art to have screened a plurality of entities to identify a plurality of authorized traders as motivated by the need to ensure that the all parties participating on the site are trusted. It would have been obvious for one to have entered into an agreement for a sales contract based upon the submitted bid and asks as motivated by the need to comply with traditional business practices.

The applicant argues that the Fpix is silent regarding a server connected to the network where the server has a server memory medium storing information indicative of a plurality of authorized traders, and one or more server processors is configured for determining whether the client is a trader client belonging to a trader of the plurality of authorized traders, for accepting terms from the trader client, and for entering into a sales contract for the commodity based upon the terms from the trader client of each of at least two contracting traders, if the terms from the client of each trader indicates an agreement, as required by independent claim 26. Fpix teaches or renders

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obvious each of these steps on the internet, it would have been obvious for one skilled in the art at the time to use a server connected to a network to carry out these processes as this is the conventional means for carrying out these steps on the internet.

The applicant argues that Fpix fails to teach of submitting terms for a sales contract for a commodity onto the server and if the submitted terms indicate agreement, then entering into an agreement by computer for the sales contract for the commodity based upon the submitted terms of each of at least two contracting traders, as required by claim 43 the examiner maintains that an bid ask matching engine of Fpix renders obvious this stored contract.

The applicant argues that there must be some evidenced reason for modifying a reference. Specifically, there must be evidence, outside of the present application, which motivates, leads, or suggests to one of ordinary skill to modify a reference. Applicants disclosure is forbidden territory for the Examiner to obtain the requisite motivation for combining the applied prior art. *Panduit Corp. v. Dennison Mfg. Co.*, 774 F.2d 1082, 227 USPQ 337 (Fed. Cir. 1985). There is ample motivation for modifying the reference. In particular, credit worthiness is a well understood factor in commercial trade.

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Richard C. Weisberger whose telephone number is 571 272 6753. The examiner can normally be reached on 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Kramer can be reached on 571 272 6783. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Richard C Weisberger  
Primary Examiner  
Art Unit 3693

/Richard C Weisberger/  
Primary Examiner, Art Unit 3693